

Meeting of 1997-9-9 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 9, 1997 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

John T. Marley, Mayor, Also Present:
Presiding Gil Schumpert, City Manager
Felix Cruz, City Attorney
Brenda Smith, City Clerk

The meeting was called to order at 6:00 p.m. with Invocation by Pastor Bob Weger, Bible Baptist Church, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall bulletin board as required by law.

ROLL CALL

PRESENT: Jody Maples, Ward One
Richard Williams, Ward Two
Jeff Sadler, Ward Three
John Purcell, Ward Four
Robert Shanklin, Ward Five
Charles Beller, Ward Six
Carol Green, Ward Seven
Randy Warren, Ward Eight

ABSENT: None.

PRESENTATION OF CITIZEN OF THE MONTH AWARD TO SALLY CANNON

Patsy Bard, Chairperson of Mayors Commission on the Status of Women, introduced Sally Cannon as Citizen of the Month for September. Ms. Cannon came to Fort Sill in 1973 from Washington, D.C. with her husband and two sons, and became active in domestic violence prevention programs. For the past 15 years, Ms. Cannon has held aerobic classes at the Center for Creative Living and volunteered at the Lawton Community Theater, Salvation Army, Friends of the Library and the International Festival. She also sponsors golf tournaments every other year at Fort Sill.

Mayor Marley presented a letter and certificate from Congressman J.C. Watts and a certificate for the Oklahoma House of Representatives signed by the local legislative delegation. A certificate from the City of Lawton was presented and he congratulated Ms. Cannon on receiving this award.

Bard congratulated Beverly Horse on having been inducted into the Oklahoma Womens Hall of Fame. Ms. Horse is a past member of the Womens Commission, past recipient of Citizen of the Month award and past Comanche County Outstanding Woman. Mayor Marley congratulated Ms. Horse on receiving this recognition.

CONSIDER MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF AUGUST 26, 1997.

MOVED by Green, SECOND by Maples, for approval of the Minutes. AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Bob McCaffree, 719 Heinzwood Circle, said other residents of the Meadowbrook area are also present. He said there had been a surprising development regarding flood hazards and urged action by the City. McCaffree said the Bank of Elgin is building a new branch in the flood fringe of Wolf Creek, on Gore just east of the Meadow Wood Animal Clinic. The City Engineer would not give the Bank a building permit because it would cause some increase in base flood elevation upstream, contrary to the portion of the City Code passed by the City Council on November 14, 1995. The LMAPC is designated as a flood hazards appeal board so the bank went to that board and argued that only a small amount of water, a quarter inch, is insignificant and can be rounded down to zero, yet the banks

professional engineer still cannot come up with calculations showing there will be no increase of water during the 100 year flood and that calculation is required by City Code.

McCaffree said at the appeals board meeting, the City's senior civil engineer argued that if we do not follow the standard in the Code, what do we do. He also pointed out that the bank could build on peers without causing that increase in the base flood elevation and there may be cumulative effects from other such variances, which could have an unfavorable impact on the City's flood insurance program. McCaffree said the board ruled in favor of the bank, and the chairman, at the end, suggested the City staff review the code to see if changes were needed.

McCaffree said the City, at that time, had two options, issuing the permit or appealing the ruling to District Court. The City issued the permit on August 29, the 150 foot retaining wall had already been built at that time; this past weekend the builder filled in most of the space between the wall and the hill to the east, 300 to 400 tons of earth. He said the Code is clear, well worded and part of the comprehensive flood damage reduction plan. Lawton's participation in FEMA's community rating system has moved us from a class ten to a class eight in 1995. Each of these two reductions earned a 5% decrease in flood insurance premiums throughout the City. McCaffree asked if the flood hazard board's decision could cause this progress to falter in FEMA's view and reverse the trend.

McCaffree said the City Council acted with considerable strength in 1995 to pass that part of the Code and that it looks like the Code has been breached and those observing this feel betrayed. He said none of these actions required public notification in the newspapers so they did not appear in opposition to the permit. One member of the hazard board said he had not known of any opposition and now that he knows the reasons for the opposition, he would have voted the other way. He said they also felt that a strong case can be made that the Board did not follow its own guide lines in Section 18-1025, paragraphs A1, A2 and A3. McCaffree asked the City Council to stick by its guns and protect the flood hazard code by suggesting that the City Manager listen to and support his engineer in this matter, to study the impact of what has occurred, and to appeal this matter to the District Court.

UNFINISHED BUSINESS:

1. Consider adopting an ordinance repealing the present regulation on charitable car wash ordinance, and consider enacting a new ordinance regulating charitable car washes. EXHIBITS: ORDINANCE NO. 97-44 .

Purcell said Council tabled this item at the last meeting and asked the City Attorney to present a recommendation. He said the proposed ordinance appears to cover what was desired and asked for comment if there is a better way to approach it.

Shanklin said he spoke with a school board member this afternoon and found that there is insurance for the students when they are doing car washes. He said each activity will be allowed only two fund raisers per year and that car washes would likely not be one of those because the average income is \$100. Shanklin said he did not feel it would be detrimental to the schools to adopt this ordinance.

Beller said on Saturday he counted nine car washes from Railroad and Gore to 45th and Cache Road. He said the most flagrant violations were at Lawton High School where eight to ten kids were standing in and around the street trying to direct traffic into the high school for the car wash. Beller said he was concerned with dumping the toxins into the streets and sanitation system after requiring the professional car wash operators to have it contained. He said he felt the ordinance was needed and that he would support it.

Purcell asked if the ordinance would have an impact on Lawton High or if it applied to non-profit organizations having car washes on their own property. Cruz said the activities would have to be at regular car wash facilities; it can be done on school property if they have the interceptors. Beller said there is a wash facility where the buses are kept that could possibly be used by the schools.

Cruz said the item title does not indicate an emergency being included in the ordinance; the ordinance in the packet includes an emergency clause. He said permits have been issued for car washes through October 4 and suggested the ordinance not contain the emergency clause.

MOVED by Purcell, SECOND by Maples, to approve Ordinance No. 97-44, waive reading of the ordinance, reading only the title, and to strike the emergency clause.

(Title read by Clerk) ORDINANCE NO. 97-44

AN ORDINANCE RELATING TO CAR WASH, REPEALING ARTICLE 26, CHAPTER 7, LAWTON CITY CODE, 1995, RESERVING THE ARTICLE AND SECTION NUMBERS FOR FURTHER USES; ENACTING A NEW ORDINANCE REGULATING CAR WASHES FOR THE PURPOSE OF RAISING FUNDS; PROVIDING FOR PENALTY, CODIFICATION, AND SEVERABILITY.

AYE: Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

2. Hold a public hearing and consider an ordinance amending the Land Use Plan from Residential-Single Family and Duplex to Residential Multi-Family and a change of zoning from R-1 (Single Family Dwelling District) to R-3 (Multiple Family Dwelling District) zoning classification located at 2123 NW Columbia Avenue. EXHIBITS: ORDINANCE NO. 97-____; LOCATION MAP; APPLICATIONS; SITE PLAN; LMAPC MINUTES; MEMORANDA FROM PRINCIPAL PLANNER, TRANSPORTATION PLANNER, AND TRAFFIC ENGINEER. (PETITION ON FILE IN CITY CLERKS OFFICE)

Beller said he would disclose that there may be a possible conflict of interest in his participating in the discussion and that he would refrain from discussing or voting on this matter.

Bob Bigham, City Planner, said the applicants are Richard and Sue McLaughlin. This is a .2 acre tract located at the northwest corner of Columbia and Sheridan Road. The McLaughlins propose to lease the property to be used as a day care center and R-3 zoning is the most restrictive zoning classification for a day care center. An earlier application was submitted by the McLaughlins for a professional and office district but after the LMAPC public hearing, the request was withdrawn.

Transparency of the area was shown. Bigham pointed out surrounding land uses as Sheridan Apartments, a grocery store, a bank, an insurance office, and a lot recently rezoned where a commercial building is under construction. Bigham said Morford Addition is to the east, and Lee Addition is to the south. LMAPC held a public hearing on August 13. 20 letters of notice were mailed to property owners within 300 feet and notice was published in the newspaper. A petition was submitted at the LMAPC public hearing containing 65 names, representing 29.6% of the property owners within 300 feet. Transparency indicating those in opposition was shown; another transparency was shown reflecting protest within the 300 feet notification area. Increased vote by City Council is not required. LMAPC recommended denial of the request by a 7-0 vote.

PUBLIC HEARING OPENED.

James Cobb, 2117 NW Columbia, said he would be speaking on behalf of the 65 persons who signed the petition. He thanked Beller for his courtesy.

Cobb said he opposed the rezoning and proposed use as day care center. He said the Council had received numerous telephone calls, letters and the petition of opposition. Reasons for opposition are that this is not a safe place to put a day care center; it will adversely affect the appearance and value of the neighborhood; and legal reasons preclude such a use. He said the building has a high visibility, being on the corner of Sheridan and Columbia, and also has very high traffic just feet away.

Cobb said Sheridan Road is at 107% of capacity according to the land use study, and this will get larger with each new business. Traffic flow will be disrupted with each new cut out and there will be more and more frantic spurts from light to light. The intersection at Sheridan and Columbia is especially dangerous since this is the first intersection south of the light at Ferris and Sheridan one block away. Another intersection two blocks away has a light. There is heavy U Turn traffic there because of the proximity to Ferris. He said this, mixed with the waves of traffic coming from the lights at Ferris and coming two blocks away at the light at the Wards Shopping Center, with motorists entering Sheridan from Columbia and from the apartments, makes this a frantic intersection. Traffic does not flow smoothly but goes in waves. Motorists have approximately 15 seconds to get onto Sheridan or wait for the next wave.

Cobb said traffic on Columbia is far heavier than the street was built for. He said it takes only one child getting loose, as has happened in another Oklahoma town recently, and the safety of the children on the residential streets is already compromised by heavy residential traffic. Cobb said adding the business traffic can only make that worse. He said he could not get traffic accident statistics and was told that was not available to the public, but he had personally seen six accidents in the last six months, all being fender benders from people not paying attention or tail gating.

Cobb said streets would need repair as a result of having to handle more traffic than they were designed for. He said the house is at a 45 degree angle, half on Sheridan and half on Columbia, although it is addressed on Columbia and is a prominent part of the neighborhood. Cobb said the house sets the aesthetic tone for the entire neighborhood, whether there be grass, shrubs and trees or an asphalt parking lot and chain link fence.

Cobb said McLaughlin plans to make a 27 foot cut out onto Columbia, further strengthening the ties to the neighborhood and significantly increasing the business traffic on the residential streets. He said he had been told he did not own the streets, but the lack of noise, traffic, and safety of the children traveling the streets is part of the value of the neighborhood. The property value of near by neighbors can only go down and the street and entire addition will suffer if business is allowed to encroach into the residential street. Part of the value of the houses was that the original owners were promised from the beginning that there would be no businesses encroaching into the

residential neighborhood.

Cobb said the Lawton Land Use Plan is a legal document; the 1995, 2005 and 2010 plans state the best use of the land is residential, in spite of heavy insistence from business, that section of land from Gore to Ferris on the east side only should remain residential. He said spot zoning is still illegal, and plat restrictions are still valid and forbid the use of the land for anything other than residential use. Courts are upholding plat restrictions and stating they are held in precedence over zoning. Cobb asked that Council uphold the land use plan, protect the neighborhood, and deny the rezoning.

PUBLIC HEARING CLOSED.

Shanklin said there are two homes at this intersection, one facing northwest and one facing southwest but not facing directly on Sheridan Road. He said he had lived on a corner on Fort Sill Boulevard for 15 years, there is a tremendous amount of traffic, and no homes are for sale. Shanklin said the area being considered consists of home owners and it is not rental property; people bought the homes hoping it would remain as it is.

MOVED by Shanklin, SECOND by Green, to deny the rezoning request. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Green. NAY: None. ABSTAIN: Beller. MOTION CARRIED.

Mayor Marley asked that Item 7 be considered at this time.

7. Consider award of an agreement to provide Banking Service to the City of Lawton. EXHIBITS: PROPOSALS FROM AMQUEST BANK, NA, CITIZENS BANK AND PEOPLES STATE BANK.

Purcell said he felt he had a conflict of interest in this item and needed to abstain. He said he would not participate in the discussion or vote.

Schumpert said banking services were advertised with Requests for Proposals. Recommended action is to award to the lowest responsible bidder, Peoples State Bank.

Shanklin said the item was put out for bid and the City has a specification committee. He said he did not know the people from Blair and that Citizens had done an outstanding job, but they were not the low bidder and we defeat the process if we do not give it to the low bidder.

MOVED by Shanklin, SECOND by Maples, to award the banking services to Peoples State Bank.

Warren said he is usually the one saying to follow the bid process and take the low bid but that this did not end up as simple as he thought. He said it is not just a matter of changing banks, and we are talking about making an extra \$2,100 the first year, but to achieve that, it will cost the City 120 hours of MIS Division time to get everything changed over, not to mention the fact that there is a very short period of time in which to get this accomplished, get checks printed, and everything necessary to change banks.

SUBSTITUTE MOTION by Warren, SECOND by Green, to accept the bid from Citizens Bank.

Warren said he felt in the long run it would wash or be cheaper for the City. He said when the contract with Citizens is up, there will be a period of time when the City will still bank with Citizens, waiting for everything to get in line, and Citizens would have the option to charge the City \$1 per transaction if they wanted to do that, or pay no interest on the money, because there would no longer be a contract. Warren said that is not a threat and that he really did not think Citizens would do that, but that possibility is there.

Beller asked if he could ask questions of the representatives of Peoples State Bank. Mayor Marley said representatives are present from both banks. Council agreed to receive comment.

Mark Harold, Vice President, Peoples State Bank, appeared to respond to questions. Beller said information shows we are presently using the automated clearing house transfers and asked if that would be available with Peoples State Bank. Harold said yes, nothing will change there. Beller said he assumed they had gone down the entire list of requirements of the City. Harold said yes, they reviewed the bid and were confident they could handle all of the requirements and take care of all the up front expense. Harold said it is a large account for them and a lot of transactions but they can handle the ACH item; the wire transfers are not a problem. Harold said on pledging, they already have a lot of municipal accounts right now at other branches and money is kept pledged for those, and they would not be releasing pledges if the balance drops down, and they would take care of the money in a safe and sound manner. Harold said that is the reason they made the bid and that they would not have made the bid if they did not feel they could provide the service in a quality way.

Beller asked if Peoples State Bank operated in a profit mode last year and earn anything as far as money is concerned. Harold said as far as a profit mode, it was a close year.

Beller asked if Peoples State Bank was adequately staffed to take care of the account. Harold said they do not have a tremendous number of employees and are a small bank, but he believed they could handle this. Harold said a lot of this is generated through the computer system, and while there are 800 items every two weeks through ACH on the payroll, approximately 2,400 items per month on utilities, this is generated through a tape that is down loaded in the system. He said it does create a lot of green bar paper to look at for the records but it does not take a tremendous number of man hours extra to do this; many transactions are handled automatically and that is the reason it is called an automated clearing house, it takes the physical labor out of it. Harold said he felt they were adequately staffed and if they find they are not, staff will be added and there would not be a problem doing that.

Beller said he appreciated the courtesy he was shown this morning by Peoples Bank and appreciated their bid. Beller asked if the Finance Director felt Peoples could handle the account. Steve Livingston, Finance Director, said yes, and if he did not think that, he would certainly say that. Livingston said he, the Accounting Supervisor and Data Processing Supervisor went to Peoples after the bids had been received to talk with them and make sure they understood the kind of volume involved. Livingston said one of the worst things that could happen would be to have a bank that could not handle the City's transactions, and Peoples was confident and that he saw nothing to make him believe that they could not handle the City's business.

Beller said he also thought Citizens had done an excellent job in providing services to the City and it is unfortunate that they were not the low bidder, but that is one of those things that happens.

Williams asked if the City will incur some additional cost in changing banking facilities. Livingston said there is additional cost in time and effort in changing banking facilities. He said he received an estimate on required computer time and understood there had been further conversation that may have shown the hours would be lower but was unable to confirm that.

Livingston said there would be additional work in changing banks, and that for a couple of months, staff would be working with two banks and had done that in the past. He said when the City changed from American National Bank to Citizens Bank, American was very helpful and did not want to lose the account for what we said at the time was \$75 per year, it was a very narrow bid difference, and American continued to work with us. Livingston said the City will have to keep money at Citizens to clear checks, and during the previous bank change, the City had money in some accounts for as long as five years to cover outstanding warrants. He said if Peoples Bank received the contract, he hoped an arrangement could be made with Citizens to return the favor when they became the principal depository several years ago that American National did also.

Williams asked how long the City had the account with Citizens. Livingston said he believed it was about nine years, and before that it was American National for a number of years.

Green said she understood the City had been banking with Citizens for three years. She said she felt the accounts should remain at Citizens since they have the ability to meet the demands of the City, and that she would be voting to stay with Citizens. Green said Peoples may not have adequate employees to meet the needs.

Maples said the City goes out for bids, and changes insurance companies all the time based on the bids submitted, the prices and the ability to provide the service. She said Peoples has not shown they cannot meet the needs and that they should be given a chance like Citizens was given. Maples said the contract was transferred from American to Citizens for \$75 per year, and Peoples meets the specifications and should be given the opportunity to do the job.

Williams suggested Citizens be given the opportunity to speak.

Jeff Chisolm, Senior Vice President of Citizens Bank, said they had been privileged to be the City's depository for the last three years. He said he would go on record that Citizens would work with the City if a decision were made to change to Peoples. Chisolm said the size of the bank is critical when considering the collateral the City must have for deposits with the bank; the City balances on deposit fluctuate greatly from \$6 million one day to \$1 million the next, and for a small institution, that should be taken into consideration and could create an undue burden on City staff to monitor that.

Chisolm said regarding automated clearing house entries, that is the way the City pays its employees and also the way many of the water bills are paid. He said Citizens has a great deal of experience in that area, and that it is a specialized area of banking. Chisolm said the City processes approximately 60,000 transactions per year and give a file every single day the bank is open.

Cruz said the City Code requires that if the Council were to award the bid to other than the lowest bidder, it must state the reasons why in the minutes. He said with that comment, he would consider that the comments of the mover and seconder and the supporters of the motion would be the reason why Council would be awarding it to other than the lowest bidder if the substitute motion were to pass.

Sadler said he was not aware the City had changed banks for \$75 per year in the past. He said he did not think it was worth changing for the negligible amount of the difference, and that being the case, he planned to vote to stay with Citizens. Sadler said having to maintain an account with Citizens for up to five years to cover outstanding checks was more trouble for staff than it would be worth, and that was his reason for supporting Citizens.

Shanklin said Council evaluated the City Manager not too long ago and extended his contract, and he recommends the change. He said he was disappointed that some of the other local banks did not at least respond. Shanklin said he could remember when Citizens was a small bank also, and that he could not see the reasoning that because Peoples may be small that they could not get the job done. He said if Council is not going to award to the low bidder, it should not put out any more bids but only allow politics to enter the award.

Williams said he felt both were class institutions making bids and that he appreciated both of them. He said if the City is going to ask vendors to take the time to bid on a particular project, the Council should adhere to those established rules and award to the low bidder. Williams said Council has the fiduciary responsibility to oversee the citizens money, and if it were his money, he might do something different, but it not his money, and for that reason, he planned to vote to go with the low bidder.

Beller said some times the low bid is not always the best, although it could be discussed further in this case.

VOTE ON SUBSTITUTE MOTION TO AWARD TO CITIZENS BANK: AYE: Sadler, Beller, Green, Warren. NAY: Maples, Williams, Shanklin. ABSTAIN: Purcell. SUBSTITUTE MOTION CARRIED.

3. Hold a public hearing and consider an ordinance changing the zoning from R-1 (Single Family Dwelling District) to C-5 (General Commercial District) zoning classification located at 2114, 2116, and 2118 NW Oak Avenue. EXHIBITS: ORDINANCE NO. 97-45; LOCATION MAP; APPLICATION; SITE PLAN; LMAPC MINUTES; MEMORANDA FROM PRINCIPAL PLANNER, TRANSPORTATION PLANNER AND TRAFFIC ENGINEER.

Bigham said Bill Williams, applicant, originally submitted an application for C-5 zoning for three lots adjacent to Sheridan Road. He pointed out the location on a transparency showing Cache Road to the north, Western Auto, Ryans, Prudential Office Building, parking lot for Ryans, and a video store; to the south is a vacant commercial building, and commercial across the street. Twelve owners were notified and notice was published.

Bigham said in the 2020 Land Use Plan, Moore Addition is shown as a transition zone to commercial and the plan recognizes block developments but to the most restrictive zoning which would be C-1. The LMAPC held a public hearing on August 13 and recommended approval of C-4, Tourist Commercial zoning, by a 7-0 vote. C-4 zoning is currently in place across the street from these lots and Williams agreed to C-4. Bigham said Williams has submitted a rezoning application for the fourth lot, after having submitted the application for these three lots, which is going through the Planning Commission process to the City Council.

Maples asked what was going to be built. Bigham said it is for commercial development, a restaurant was specified in the application.

PUBLIC HEARING OPENED.

Bill Williams, 3503 NW Ridgeroad Place, said he was buying the property to develop for commercial use and that he did not have a specific use for it right now. He said the same was true on the 3.5 acres where Western Auto, Hollywood Videos, Ryans Steak House and the Prudential Building are located. Williams said he purchased that in 1986 and it took five or six years to develop that, but the person must first own the property and then decide what is best for it, and that was what he was doing in this case. He requested approval of the application. Williams said in 1972, all the owners in that entire addition signed a document asking for the vacation of the restrictive covenants in Moore Addition and asked that it be transferred into commercial property.

PUBLIC HEARING CLOSED.

MOVED by Williams, SECOND by Purcell, to adopt Ordinance No. 97-45 on changing this zoning to C-4, waive reading of the ordinance, read the title only.

(Title read by Clerk) ORDINANCE NO. 97-45

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF THE TRACT OF LAND WHICH IS HEREINAFTER MORE PARTICULARLY DESCRIBED IN SECTION ONE (1) HEREOF FROM THE EXISTING CLASSIFICATION OF R-1 (SINGLE FAMILY DWELLING DISTRICT) TO C-4 (TOURIST COMMERCIAL DISTRICT) ZONING CLASSIFICATION; AUTHORIZING CHANGES TO BE MADE UPON THE OFFICIAL ZONING MAP IN ACCORDANCE WITH THIS ORDINANCE.

VOTE ON MOTION: AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION

CARRIED.

4. Consider adopting a resolution granting written authorization to Wackenhut Corrections, Inc. and/or Wackenhut Corrections Trust 1997-1 to plan, construct, and establish a private prison facility within the corporate limits of the City. EXHIBITS: RESOLUTION NO. 97-111.

MOVED by Maples, SECOND by Green, to approve Resolution No. 97-111. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-111

A RESOLUTION GRANTING WRITTEN AUTHORIZATION TO WACKENHUT CORRECTIONS, INC., AND/OR WACKENHUT CORRECTIONS TRUST 1997-1 TO PLAN, CONSTRUCT, AND ESTABLISH A PRIVATE PRISON FACILITY WITHIN THE CORPORATE LIMITS OF THE CITY OF LAWTON, OKLAHOMA, AND PROVIDING FOR AN EFFECTIVE DATE.

5. Consider authorizing the Mayor and City Clerk to execute the Consent Order with the Oklahoma Department of Environmental Quality (ODEQ) requiring the City to perform certain tasks to upgrade the Wastewater Treatment System within the approved schedule. EXHIBITS: CONSENT ORDER; LETTER DATED JULY 29, 1997 TO THE ODEQ.

Jerry Ihler, Public Works/Engineering Director, said the City received an administrative order two and a half years ago from EPA, as well as a consent order from ODEQ, to perform the sanitary sewer evaluation survey and, as a result of that survey, develop a rehabilitation program. The consultant completed the report in January 1997 and recommended a rehabilitation program of \$61.2 million. The report was submitted to EPA and DEQ in March requesting a schedule of 20 years for completion of the rehabilitation program. Ihler said the question was not the rehabilitation program itself, but how long EPA or DEQ would grant to complete the program. Ihler said staff had been working with EPA and DEQ, and the federal government is in the process of turning over monitoring of these consent orders and administrative orders and delegation of water and wastewater plants and systems operations from the federal level to the state level. As a result, Lawton has received a consent order with DEQ which allows a phased approach. He said several Council members and staff met with DEQ in Oklahoma City in May and they recommended a phased approach.

Ihler said DEQ has been working with EPA, and EPA still has ultimate authority until they turn over delegation completely of Lawtons files to the State of Oklahoma. He said DEQ has corresponded with EPA and it is expected the EPA will approve of what DEQ has presented to Lawton.

Ihler said the consent order consists of four areas; one for the construction of the wastewater treatment plant, which is currently under construction. The schedule is to complete construction by August 1999, which is within the expected completion time. He said having the wastewater plant in the consent order works to Lawtons benefit; since it is under construction, there will be process units out of service, which may result in the plant being out of compliance, but it will be understood that it is a result of the construction.

Ihler said the second item is the schedule for rehabilitation of the collection system. Lawton had submitted a proposed 20 year schedule to EPA, and the response was that the schedule was not very aggressive and asked that the 20 year schedule be justified and consider a shorter time period. He said he understood EPA suggested \$61 million in improvements be done in five to seven years, or about \$10 million per year in construction. This would be difficult to manage from a financial standpoint, as well as the inconvenience to the residents with construction, detours and easements being torn up. DEQ has approved the phase one improvements, which are in the Squaw Creek basin area, and a seven year schedule for completion, which is about \$3.5 million per year.

The third item is to submit a proposal for an environmental enhancement project, such as a park project or something similar to Cache Road Beautification, and those will be in each of the phases.

The last item is that by the Year 2003, Lawton must submit a schedule for phase two which would consist of improvements to the Wolf Creek basin. Ihler said it appears Lawton will receive approval of the 20 year schedule as proposed.

Mayor Marley recognized Shelly Chard-Maxwell from ODEQ who was present and had been working with staff. He said he felt it would be to Lawtons benefit to be able to work with ODEQ rather than directly with EPA. He thanked Ms. Maxwell for her efforts with the phasing program which will help Lawton tremendously.

Shanklin asked if the maintenance program would be in areas other than the Squaw Creek basin or work them together. Ihler said we would work them together; the maintenance program will be addressing the areas that are

the biggest problems. Shanklin asked if thought had been given to doing this with staff. Ihler said he had briefly looked at it, though not much from the construction standpoint, but that he had been comparing the cost in the report from the engineering standpoint, design and inspection, and will likely bring a recommendation in the next couple of months to do the design work and inspection with in-house services instead of contracting it out. Ihler said he had not looked closely at using City crews for construction or creating crews; \$3.5 million is a lot of construction; it is possible that some of it can be done with maintenance crews and we will do that when possible.

MOVED by Purcell, SECOND by Warren, to authorize the Mayor and City Clerk to execute the consent order with the Oklahoma Department of Environmental Quality requiring the City to perform certain tasks to upgrade the wastewater treatment system within the approved schedule. AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Williams, Sadler. NAY: None. MOTION CARRIED.

6. Consider denying a request for the removal of traffic control devices at the specified location. EXHIBITS: EXCERPT OF 8/27/97 TRAFFIC COMMISSION DRAFT MINUTES.

Council agreed to receive comment.

Bob Williams, 1006 Alta Lane, said the property at 202 NW 1st Street had been in his family for 45 years and three years ago, they closed the building due to the drug problem. He said he was the one who originally asked for the no parking signs. Williams said he needed to be able to park at his building to conduct his taxidermy business and asked that the signs be removed or changed to allow parking between 7:30 a.m. and 9 p.m.

MOVED by Green, SECOND by Maples, to remove the no parking signs at 202 NW 1st Street. AYE: Shanklin, Beller, Green, Warren, Maples, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

8. Consider awarding a construction contract for the East Elevated Tank and Industrial Elevated Tank Painting Project 97-11. EXHIBITS: BID TABULATION OF AUGUST 26, 1997.

Ihler explained the tanks were painted many years ago with lead based paint. EPA requires tanks be covered and residue contained during sand blasting, which caused the price to increase. Original funding was allocated in the 1995 CIP and an additional \$70,000 is needed to complete both projects. Suggested funding source for the additional amount is 1995 CIP.

MOVED by Shanklin, SECOND by Sadler, to award the contract and approve \$70,000 additional from the 1995 CIP. AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.
(Award is to Jackson Industrial Coatings, Inc. for the Base Bid plus Alternates No. 1 and No. 2 in the amount of \$596,000 for the East Elevated Tank and Industrial Elevated Tank Painting Project 97-11.)

Beller said the City will be recognized by the National Portland Concrete Association for the Rogers Lane project and suggested Ihler or Schumpert attend the ceremony in Phoenix to accept the award.

CONSENT AGENDA:

9. Consider the following damage claims recommended for approval and consider passage of resolutions authorizing the City Attorney to file friendly suits for the claims over \$400.00: Thomas and Terry Black; and Nathan J. Terry. EXHIBITS: LEGAL OPINIONS/RECOMMENDATIONS. (RESOLUTION NOS. 97-112 AND 97-113 ON FILE IN CITY CLERKS OFFICE)

(Title only) RESOLUTION NO. 97-112

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST THOMAS AND TERRY BLACK IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF ONE THOUSAND, FIVE HUNDRED NINETY-TWO DOLLARS (\$1,592.00).

(Title only) RESOLUTION NO. 97-113

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST NATHAN J. TERRY IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF SEVEN HUNDRED FIFTY DOLLARS (\$750.00).

10. Consider the following damage claims recommended for denial: Maxwell H. Parrish, Sr.; Southwestern Bell Telephone Company; Kan Haul Services; Daniel and Christel Childers; and Nick Mickle. EXHIBITS: LEGAL OPINIONS/RECOMMENDATIONS. Action: Deny claims as recommended. *KAN HAUL SERVICES CLAIM WAS DELETED FROM CONSIDERATION AS SHOWN BELOW.

11. Consider a resolution authorizing the installation of traffic control devices at specified locations. EXHIBITS: RESOLUTION NO. 97-114; EXCERPT OF 8/27/97 TRAFFIC COMM. DRAFT MINUTES.

(Title only) RESOLUTION NO. 97-114

A RESOLUTION AUTHORIZING THE INSTALLATION OF TRAFFIC CONTROL DEVICES AT CERTAIN DESIGNATED LOCATIONS WITHIN THE CITY OF LAWTON, OKLAHOMA. Authorizes: Stop signs at intersection of Lee Blvd. and SW Parkridge, SW 30th, SW Ridge Terrace, and SW 54th St.; Yield signs along Dogwood/Cherry at Willow Creek Drive, and along Normandy at Chaucer Drive.

12. Consider denying requests for the installation of traffic control devices at specified locations. EXHIBITS: EXCERPT OF 8/27/97 TRAFFIC COMMISSION DRAFT MINUTES. Action: Deny requests.

13. Consider accepting easements from Mr. and Mrs. Bridwell, Notami Hospitals of Oklahoma, George T. Barber, Kathryn A. Barber and James S. Barber for the sewer line that serves the hospital on SW 82nd Street. EXHIBITS: EASEMENT MAP. Action: Accept easements.

14. Consider awarding a construction contract for the Water Treatment Plant Clarifier Painting Project 97-12. EXHIBITS: BID TABULATION OF AUGUST 26, 1997. Action: Award contract to Luckinbill, Inc. in the amount of \$150,870.90 for the Water Treatment Plant Clarifier Painting Project 97-12.

15. Consider awarding a construction contract for the Vehicle Exhaust Ventilation System Project 97-15 to Air Cleaning Technologies, Inc. in the amount of \$38,990.56. EXHIBITS: BID TABULATION OF AUGUST 19, 1997; LOCATION MAP. Action: Award contract to Air Cleaning Technologies, Inc. in the amount of \$38,990.56.

16. Consider extending contract for police uniforms. EXHIBITS: VENDORS MAILING LIST; TABULATION. Action: Extend contract with Tuxall Uniform & Equipment to 6/30/98 at same terms.

17. Consider extending contract for shoes (athletic/walking). EXHIBITS: VENDORS MAILING LIST; TABULATION. Action: Extend contract with Bills Scoreboard to 6/30/98 at same terms.

ITEM 18 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

19. Consider extending contract for fire department uniforms. EXHIBITS: VENDORS MAILING LIST; TABULATION. Action: Extend contract with J.B. Battle Uniform Company and Tuxall Uniform & Equipment to 6/30/98 at same terms.

20. Consider extending contract for fire department t-shirts and caps. EXHIBITS: VENDORS MAILING LIST; TABULATION. Action: Extend contract with Sportswear and More to 6/30/98 at same terms.

21. Consider extending contract for fire resistant uniforms. EXHIBITS: VENDORS MAILING LIST; TABULATION. Action: Extend contract with J.B. Battle Uniform Company (Item 1) to 6/30/98 at same terms.

22. Consider extending contract for work clothing. EXHIBITS: VENDORS MAILING LIST; TABULATION. Action: Extend contract with Sportswear and More to 6/30/98 at same terms.

23. Consider rejecting bids for work clothing. EXHIBITS: VENDORS MAILING LIST; TABULATION. Action: Reject all bids.

24. Consider extending contract for heavy equipment - parts and service. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Extend contract with Darr Equipment Company to 9/30/98 at same terms.

25. Consider approving contract change order of natural grass baling sub-lease agreement, Lake Ellsworth, with Paul M. Hayes. EXHIBITS: LETTER FROM CONTRACTOR REQUESTING CHANGE; CONTRACT CHANGE ORDER. Action: Approve contract change order and authorize execution.

26. Consider awarding contract for work zone safety devices. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOM. Action: Award contract to Boren Safety, Inc. (Item 1); Fence & Supply Store (Item 2; and Oklahoma State Industries (Item 3), and authorize execution.

27. Consider awarding contract for four gas monitor. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Award contract to Wayest Safety, Inc., and authorize execution.

28. Consider awarding contract for weed trimmer on wheels. EXHIBITS: VENDORS MAILING LIST; TABULATION; RECOMMENDATION. Action: Award contract to Country Home Products, and authorize execution.

29. Consider awarding contract for mug shot system. EXHIBITS: VENDORS MAILING LIST; TABULATION;

RECOMMENDATION. Action: Award contract to Digital Descriptor Systems, Inc., and authorize execution.

30. Consider awarding contract for boat lift. EXHIBITS: VENDORS MAILING LIST; TABULATION;
RECOMMENDATION. Action: Award contract to Oklahoma Boat Lifts, Inc., and authorize execution.

31. Consider awarding contract for anhydrous ammonia. EXHIBITS: VENDORS MAILING LIST; TABULATION;
RECOMMENDATION. Action: Award contract to Co-op Services, Inc., and authorize execution.

32. Consider awarding contract for hydraulic excavator. EXHIBITS: VENDORS MAILING LIST; TABULATION;
RECOMMENDATION. Action: Award contract to Midwestern Equipment Company and authorize execution.

33. Consider awarding contract for CAD workstation. EXHIBITS: VENDORS MAILING LIST; TABULATION;
RECOMMENDATION. Action: Award contract to Tri-Star Computer and authorize execution.

34. Mayors Appointments. EXHIBITS: NONE.

Commission on Status of Women:

Kathy Bonney, Fort Sill Representative; Term exp. 11/28/99

Sheila Alford, Ward 4 Representative; Term exp. 9/9/2000

Pension Trust Commission:

Ronnie Graves, Term exp. 9/27/2002

Carey Johnson, Jr., Term exp. 9/27/2002

Environmental Concerns Committee:

Pastor Gary Bender, Term exp. 9/11/2000

Doug Brown, Term exp. 9/11/2000

Gene Hollar, Term exp. 9/11/2000

Airport Authority:

Dan Mullins, Term exp. 9/9/2000

Engineering Selection Committee:

Robert Shanklin, Council Member

Stormwater Drainage Appeal Board:

O.L. Anderson, Residential Homeowner, Term exp. 9/9/99

Sheila Pedigo, Property owner in floodplain, Term exp. 9/9/99

Tom Johnson, Residential/Commercial Developer, Term exp. 9/9/98

Karol Zea, Financial/Real Estate/Insurance/Appraiser, Term exp. 9/9/98

Paul Brune, Surveyor/Engineer/Architect, Term exp. 9/9/99

35. Consider approval of payroll for the period of September 8 through 21, 1997. EXHIBITS: NONE.

Cruz asked that the Kan Haul claim be deleted from consideration. Williams asked for separate consideration of Item 18.

MOVED by Shanklin, SECOND by Green, to approve the Consent Agenda items as recommended with the exception of the Kan Haul claim, and Item 18. AYE: Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None.
MOTION CARRIED.

18. Consider extending contract for safety footwear. EXHIBITS: VENDORS MAILING LIST; TABULATION.
Action: Extend contract with Lawton Red Wing Shoe Store to 6/30/98 at same terms.

Williams said it did not appear the bid was being awarded to the low bidder. Schumpert said this is for a 60 day contract extension of an existing contract; goal is to combine work clothing and footwear items into one, competitive contract.

MOVED by Williams, SECOND by Beller, to approve the contract extension. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

36. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending civil suit styled Michael D. Cornish dba Cornish Properties vs. City of Lawton, Case No. CJ-93-253, and Michael D. Cornish dba Cornish Properties vs. City of Lawton, Case No. CS-97-138, in the District Court of Comanche County, and

in open session, appoint a representative to attend the settlement conference. EXHIBITS: NONE.

ITEM TITLE FOR ITEM 37 AMENDED SEPT. 8, 1997, AT 10:50 A.M.

37. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending civil suit styled Cierra Giles and Holly Glasgow vs. City of Lawton, Case No. CJ-96-1093, in the District Court of Comanche County, and in open session, take appropriate action. EXHIBITS: NONE.

MOVED by Williams, SECOND by Green, to convene in executive session as shown on the agenda and recommended by the legal staff. AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at 7:25 p.m. and reconvened in regular, open session at 7:30 p.m. with all members present upon roll call.

Cruz reported the Mayor and Council met in executive session to consider items listed on the agenda. Regarding Item 36, Cruz recommended Green be designated as the City's representative at the settlement conference in the Cornish suit.

MOVED by Purcell, SECOND by Warren, to designate Green as the City's representative at the settlement conference in the Cornish suit. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

Cruz recommended approval of a resolution settling the case in Item 37 for the amount of \$4,000.

MOVED by Shanklin, SECOND by Williams, to approve Resolution No. 97-115. AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Williams, Sadler. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-115

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO SETTLE A CIVIL SUIT STYLED CIERRA GILES, A MINOR, BY AND THROUGH HER NEXT FRIEND, HER MOTHER, AND HOLLY GLASGOW VS. THE CITY OF LAWTON, OKLAHOMA, CASE NO. CJ-96-1093, IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Green reported on upcoming meetings to provide housing assistance to the public; meetings will be held at 6:30 p.m. on September 18 at the Douglas Elementary School cafeteria, on October 16 at the King Center at 20th and Taylor, and on October 30 at the Owens Multi Purpose Center.

Shanklin reported the landfill attendant asked him to pay a dumping fee because he took his personal, household trash to the landfill in his pickup which contains the words commercial vehicle. Beller said he knew of a similar occurrence to another person. Ordinance will be reviewed for possible revision or suggestion and returned to Council. Sadler suggested a drivers license be allowed as proof of residence as opposed to people having to come up with their water bill stub.

Purcell congratulated Jerry Ihler on having been appointed to the Hazardous Waste Management Advisory Council for a three year term.

Purcell said Council heard of a problem during audience participation where the LMAPC granted an appeal as the flood hazard appeal board. He said the intention and process were good but the Council would have to bear the ultimate responsibility of the action. Ordinance will be examined to determine if Council should hear final appeals and returned for Council action.

Purcell reported the Board Review Committee will meet on October 6 at 4:00 p.m. with boards being considered for consolidation or removal; letters are being sent to each member to encourage input so the committee can make its final recommendation to Council.

Schumpert reported Code Administration is now fully staffed and was ready for the Council to hold a special meeting to consider condemnation of 32 structures; proposed meeting date was October 16 at 5:30 p.m., which was acceptable.

Maples asked if anyone had been fined under the new ordinance regarding high weeds and grass. Schumpert said no, Code Administration has requested ticket books from Municipal Court and will hold an informational meeting with those involved in property rentals, management, etc. Maples said Council adopted the ordinance and that she did not want to wait until next season for it to be enforced.

Shanklin said he felt the easement ordinance should be reviewed and Sadler agreed. After discussion, this item will be returned to the next agenda to waive Council policy and reconsider.

Schumpert said the City's annual auction was held August 23 and revenue raised was \$18,924.00. He said the City had been offered the property immediately west of Central Fire Station for \$150,000; fair market value is being sought and an item will be returned in this regard.

Schumpert reported on a meeting in Oklahoma City regarding high weeds and grass abatement, proposing that state law be changed to allow cities to set regulations and collect costs through the ad valorem tax rolls. Representative Kirby will draft language and return it to the committee considering this issue. He said Representative Kirby also arranged a meeting with the chief legal counsel for the House of Representatives regarding appropriation of gasoline tax revenue. Lawton receives \$178,000, but Comanche County receives \$3 million and 85% of the citizens of Comanche County are residents of Lawton. The issue is being examined from a legal standpoint.

Williams said the composting and recycling meeting would be held this week at Vo Tech.

Mayor Marley reported the OML is examining the issue of sales tax on groceries, which could be harmful to the tax base of small towns. An alternative would be to have an income tax exemption. He reported on a change in federal regulations regarding voting requirements which may affect the filing period and will preempt charter cities regulations.

Mayor Marley said an item would be on the next Council agenda regarding the Lawton Housing Authority referendum item to allow them to be able to have more units available. He said he would be gone September 14-30.

Schumpert reported the annual City picnic would be held September 20 and that Cecil Powell would be providing the food.

There was no further business to consider and the meeting adjourned at 8:00 p.m.